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December 12, 2008

BARRY P. STEINBERG
barry.steinberg@kutakrock.com
(202) 828-2316

RECORDATION NO. 27753 **FILED**

DEC 12 '08 -12 22 PM

SURFACE TRANSPORTATION BOARD

Secretary
Surface Transportation Board
395 "E" Street, S.W.
Washington, D.C. 20423-0001

Re: Document for Recordation, Pacific and Arctic Railway & Navigation Company

Dear Sir or Madam:

I have enclosed an original and one copy / counterpart of the documents described below, to be recorded pursuant to Section 11301 of Title 49 of the U.S. Code.

This document is a Grant of Security Interest, a primary document, dated August 25, 2008. The Grant of Security Interest is provided by Pacific and Arctic Railway & Navigation Company in consideration of credit and other financial accommodation granted now or in the future to White Pass & Yukon U.S. Inc. by Wells Fargo Bank, National Association.

The names and addresses of the parties to the documents are as follows:

Borrower:	White Pass and Yukon U.S. Inc. P. O. Box 435 Skagway, Alaska 99840
Lender/Grantee:	Wells Fargo Bank, National Association 301 W. Northern Lights Boulevard Anchorage, AK 99503
Owner/Grantor:	Pacific and Arctic Railway and Navigation Company P.O. Box 435 Skagway, AK 99840

A description of the equipment covered by the documents is at Exhibit A, attached hereto and interpreted herein.

KUTAK ROCK LLP


Surface Transportation Board
December 12, 2008
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The recordation fee of \$41.00 is enclosed. Please return the original and any extra copies not needed by the Board for recordation to Barry Steinberg.

A short summary of the document to appear in the index follows:

Third Party Equipment Security Agreement dated August 25, 2008 between Wells Fargo Bank, National Association (Lender/Grantee) and Pacific and Arctic Railway and Navigation Company (Owner/Grantor) to secure Lender/Grantee extension of credit to White Pass and Yukon U.S. Inc. (Borrower) and covering the attached list of parlor, dump, flat and gondola cars, locomotives, engine, caboose and rotary snowplow.

Sincerely,



Barry P. Steinberg

BPS/smj

Enclosures

DEC 12 '08 -12 22 PM

THIRD PARTY SECURITY AGREEMENT:
EQUIPMENT

SURFACE TRANSPORTATION BOARD

1. **GRANT OF SECURITY INTEREST.** In consideration of any credit or other financial accommodation heretofore, now or hereafter extended or made to WHITE PASS & YUKON U.S. INC., an Alaska corporation ("Borrower") by WELLS FARGO BANK, NATIONAL ASSOCIATION ("Bank"), and for other valuable consideration, as security for the payment of all Indebtedness of Borrower to Bank, the undersigned PACIFIC AND ARCTIC RAILWAY AND NAVIGATION COMPANY, an Alaska corporation ("Owner") hereby grants and transfers to Bank a security interest in all railway equipment, locomotives, cars and rolling stock, now or at any time hereafter, and prior to the termination hereof, owned or acquired by Owner, wherever located, whether in the possession of Owner or any other person and whether located on Owner's property or elsewhere, and all improvements, replacements, accessions and additions thereto and embedded software included therein (collectively called "Collateral"), together with whatever is receivable or received when any of the Collateral or proceeds thereof are sold, leased, collected, exchanged or otherwise disposed of, whether such disposition is voluntary or involuntary, including without limitation, (a) all accounts, contract rights, chattel paper (whether electronic or tangible), instruments, promissory notes, documents, general intangibles, payment intangibles and other rights to payment of every kind now or at any time hereafter arising out of any such sale, lease, collection, exchange or other disposition of any of the foregoing, (b) all rights to payment with respect to any insurance relating to any of the foregoing, and (c) all rights to payment with respect to any claim or cause of action affecting or relating to any of the foregoing (hereinafter called "Proceeds"). The word "Indebtedness" is used herein in its most comprehensive sense and includes any and all advances, debts, obligations and liabilities of Borrower heretofore, now or hereafter made, incurred or created, whether voluntary or involuntary and however arising, whether due or not due, absolute or contingent, liquidated or unliquidated, determined or undetermined, including under any swap, derivative, foreign exchange, hedge, deposit, treasury management or other similar transaction or arrangement, and whether Borrower may be liable individually or jointly with others, or whether recovery upon such Indebtedness may be or hereafter becomes unenforceable.

2. **OBLIGATIONS SECURED.** The obligations secured hereby are the payment and performance of: (a) all present and future Indebtedness of Borrower to Bank; (b) all obligations of Borrower and rights of Bank under this Agreement; and (c) all present and future obligations of Borrower to Bank of other kinds.

3. **TERMINATION.** This Agreement will terminate upon the performance of all obligations of Debtor to Bank, including without limitation, the payment of all Indebtedness of Borrower to Bank, and the termination of all commitments of Bank to extend credit to Borrower, existing at the time Bank receives written notice from Borrower of the termination of this Agreement.

4. **OBLIGATIONS JOINT AND SEVERAL; SEPARATE ACTIONS; WAIVER OF STATUTE OF LIMITATIONS; REINSTATEMENT OF LIABILITY.** The obligations hereunder are joint and several and independent of the obligations of Borrower, and a separate action or actions may be brought and prosecuted against Owner whether action is brought against Borrower or any other person, or whether Borrower or any other person is joined in any such action or actions. Owner acknowledges that this Agreement is absolute and unconditional, there are no conditions precedent to the effectiveness of this Agreement, and this Agreement is in full force and effect and is binding on Owner as of the date written below, regardless of whether Bank obtains collateral or any guaranties from others or takes any other action

contemplated by Owner. Owner waives the benefit of any statute of limitations affecting Owner's liability hereunder or the enforcement thereof, and Owner agrees that any payment of any indebtedness or other act which shall toll any statute of limitations applicable thereto shall similarly operate to toll such statute of limitations applicable to Owner's liability hereunder. The liability of Owner hereunder shall be reinstated and revived and the rights of Bank shall continue if and to the extent that for any reason any amount at any time paid on account of any indebtedness secured hereby is rescinded or must be otherwise restored by Bank, whether as a result of any proceedings in bankruptcy or reorganization or otherwise, all as though such amount had not been paid. The determination as to whether any amount so paid must be rescinded or restored shall be made by Bank in its sole discretion; provided however, that if Bank chooses to contest any such matter at the request of Owner, Owner agrees to indemnify and hold Bank harmless from and against all costs and expenses, including reasonable attorneys' fees (to include outside counsel fees and all allocated costs of Bank's in-house counsel), expended or incurred by Bank in connection therewith, including without limitation, in any litigation with respect thereto.

5. OBLIGATIONS OF BANK. Any money received by Bank in respect of the Collateral may be deposited, at Bank's option, into a non-interest bearing account over which Owner shall have no control, and the same shall, for all purposes, be deemed Collateral hereunder.

6. REPRESENTATIONS AND WARRANTIES.

(a) Owner represents and warrants to Bank that: (i) Owner's legal name is exactly as set forth on the first page of this Agreement, and all of Owner's organizational documents or agreements delivered to Bank are complete and accurate in every respect; (ii) Owner is the owner and has possession or control of the Collateral and Proceeds; (iii) Owner has the exclusive right to grant a security interest in the Collateral and Proceeds; (iv) all Collateral and Proceeds are genuine, free from liens, adverse claims, setoffs, default, prepayment, defenses and conditions precedent of any kind or character, except the lien created hereby or as otherwise agreed to by Bank, or as heretofore disclosed by Owner to Bank, in writing; (v) all statements contained herein are true and complete in all material respects; (vi) no financing statement covering any of the Collateral or Proceeds, and naming any secured party other than Bank, is on file in any public office; and (vii) Owner is not in the business of selling goods of the kind included within the Collateral subject to this Agreement, and Owner acknowledges that no sale or other disposition of any Collateral, including without limitation, any Collateral which Owner may deem to be surplus, has been or shall be consented to or acquiesced in by Bank, except as specifically set forth in writing by Bank.

(b) Owner further represents and warrants to Bank that: (i) the Collateral pledged hereunder is so pledged at Borrower's request; (ii) Bank has made no representation to Owner as to the creditworthiness of Borrower; and (iii) Owner has established adequate means of obtaining from Borrower on a continuing basis financial and other information pertaining to Borrower's financial condition. Owner agrees to keep adequately informed from such means of any facts, events or circumstances which might in any way affect Owner's risks hereunder, and Owner further agrees that Bank shall have no obligation to disclose to Owner any information or material about Borrower which is acquired by Bank in any manner.

7. COVENANTS OF OWNER.

(a) Owner agrees in general: (i) to indemnify Bank against all losses, claims, demands, liabilities and expenses of every kind caused by property subject hereto, except for those arising out of Bank's gross negligence or willful misconduct; (ii) to permit Bank to exercise its powers; (iii) to execute and deliver such documents as Bank deems necessary to create, perfect and continue the security interests contemplated hereby; (iv) not to change Owner's name, and as applicable, its chief executive office, its principal residence or the jurisdiction in which it is organized and/or registered without giving Bank prior written notice thereof; (v) not to change the places where Owner keeps any Collateral or Owner's records concerning the Collateral and Proceeds without giving Bank prior written notice of the address to which Owner is moving same; and (vi) to cooperate with Bank in perfecting all security interests granted herein and in obtaining such agreements from third parties as Bank deems necessary, proper or convenient in connection with the preservation, perfection or enforcement of any of its rights hereunder.

(b) Owner agrees with regard to the Collateral and Proceeds, unless Bank agrees otherwise in writing: (i) that Bank is authorized to file financing statements in the name of Owner to perfect Bank's security interest in Collateral and Proceeds and to file any necessary documentation with the Surface Transportation Board of the Department of Transportation to perfect Bank's security in the collateral; (ii) to insure the Collateral with Bank named as loss payee, in form, substance and amounts, under agreements, against risks and liabilities, and with insurance companies satisfactory to Bank acting reasonably, as same may be available; (iii) to operate the Collateral in accordance with all applicable statutes, rules and regulations relating to the use and control thereof, and not to use the Collateral for any unlawful purpose or in any way that would void any insurance required to be carried in connection therewith; (iv) not to permit any lien on the Collateral or Proceeds, including without limitation, liens arising from repairs to or storage of the Collateral, except in favor of Bank; (v) to pay when due all license fees, registration fees and other charges in connection with any Collateral; (vi) not to remove the Collateral from Owner's premises except in the ordinary course of Owner's business; (vii) not to sell, hypothecate or otherwise dispose of, nor permit the transfer by operation of law of, any of the Collateral or Proceeds or any interest therein; (viii) not to rent, lease or charter the Collateral; (ix) to permit Bank to inspect the Collateral upon reasonable notice or during business hours; (x) to keep, in accordance with generally accepted accounting principles, complete and accurate records regarding all Collateral and Proceeds, and to permit Bank to inspect the same and make copies thereof at any reasonable time; (xi) if requested by Bank, to receive and use reasonable diligence to collect Proceeds, in trust and as the property of Bank, and to immediately endorse as appropriate and deliver such Proceeds to Bank daily in the exact form in which they are received together with a collection report in form satisfactory to Bank; (xii) not to commingle Proceeds or collections thereunder with other property; (xiii) to give only normal allowances and credits and to advise Bank thereof immediately in writing if they affect any Collateral or Proceeds in any material respect; (xiv) in the event Bank elects to receive payments of Proceeds hereunder, to pay all reasonable expenses incurred by Bank in connection therewith, including expenses of accounting, correspondence, collection efforts, reporting to account or contract debtors, filing, recording, record keeping and expenses incidental thereto; and (xv) to provide any service and do any other acts which may be necessary to maintain, preserve and protect all Collateral and, as appropriate and applicable, to keep the Collateral in good and saleable condition and repair, to deal with the Collateral in accordance with the standards and practices adhered to generally by owners of like property,

and to keep all Collateral and Proceeds free and clear of all defenses, rights of offset and counterclaims.

8. **POWERS OF BANK.** Owner appoints Bank its true attorney in fact to perform any of the following powers, which are coupled with an interest, are irrevocable until termination of this Agreement and may be exercised from time to time by Bank's officers and employees, or any of them, whether or not Owner is in default: (a) to perform any obligation of Owner hereunder in Owner's name or otherwise; (b) to give notice to account debtors or others of Bank's rights in the Collateral and Proceeds, to enforce or forebear from enforcing the same and make extension or modification agreements with respect thereto; (c) to release persons liable on Proceeds and to give receipts and acquittances and compromise disputes in connection therewith; (d) to release or substitute security; (e) to resort to security in any order; (f) to prepare, execute, file, record or deliver notes, assignments, schedules, designation statements, financing statements, continuation statements, termination statements, statements of assignment, applications for registration or like papers to perfect, preserve or release Bank's interest in the Collateral and Proceeds; (g) to receive, open and read mail addressed to Owner; (h) to take cash, instruments for the payment of money and other property to which Bank is entitled; (i) to verify facts concerning the Collateral and Proceeds by inquiry of obligors thereon, or otherwise, in its own name or a fictitious name; (j) to endorse, collect, deliver and receive payment under instruments for the payment of money constituting or relating to Proceeds; (k) to prepare, adjust, execute, deliver and receive payment under insurance claims, and to collect and receive payment of and endorse any instrument in payment of loss, and to apply such amounts received by Bank, at Bank's sole option, toward repayment of the Indebtedness or replacement of the Collateral; (l) to exercise all rights, powers and remedies which Owner would have, but for this Agreement, with respect to all the Collateral and Proceeds subject hereto; (m) to enter onto Owner's premises in inspecting the Collateral; and (n) to do all acts and things and execute all documents in the name of Owner or otherwise, deemed by Bank as necessary, proper and convenient in connection with the preservation, perfection or enforcement of its rights hereunder.

9. **OWNER'S WAIVERS.**

(a) Owner waives any right to require Bank to: (i) proceed against Borrower or any other person; (ii) marshal assets or proceed against or exhaust any security held from Borrower or any other person; (iii) give notice of the terms, time and place of any public or private sale or other disposition of personal property security held from Borrower or any other person; (iv) take any other action or pursue any other remedy in Bank's power; or (v) make any presentment or demand for performance, or give any notice of nonperformance, protest, notice of protest or notice of dishonor hereunder or in connection with any obligations or evidences of indebtedness held by Bank as security for or which constitute in whole or in part the Indebtedness secured hereunder, or in connection with the creation of new or additional Indebtedness.

(b) Owner waives any defense to its obligations hereunder based upon or arising by reason of: (i) any disability or other defense of Borrower or any other person; (ii) the cessation or limitation from any cause whatsoever, other than payment in full, of the Indebtedness of Borrower or any other person; (iii) any lack of authority of any officer, director, partner, agent or any other person acting or purporting to act on behalf of Borrower which is a corporation, partnership or other type of entity, or any defect in the formation of Borrower; (iv) the application by Borrower of the proceeds of any Indebtedness for purposes other than the purposes represented by Borrower to, or intended or understood by, Bank or Owner; (v) any act or

omission by Bank which directly or indirectly results in or aids the discharge of Borrower or any portion of the Indebtedness by operation of law or otherwise, or which in any way impairs or suspends any rights or remedies of Bank against Borrower; (vi) any impairment of the value of any interest in security for the Indebtedness or any portion thereof, including without limitation, the failure to obtain or maintain perfection or recordation of any interest in any such security, the release of any such security without substitution, and/or the failure to preserve the value of, or to comply with applicable law in disposing of, any such security; (vii) any modification of the Indebtedness, in any form whatsoever, including any modification made after revocation hereof to any Indebtedness incurred prior to such revocation, and including without limitation the renewal, extension, acceleration or other change in time for payment of, or other change in the terms of, the Indebtedness or any portion thereof, including increase or decrease of the rate of interest thereon; or (viii) any requirement that Bank give any notice of acceptance of this Agreement. Until all Indebtedness shall have been paid in full, Owner shall have no right of subrogation, and Owner waives any right to enforce any remedy which Bank now has or may hereafter have against Borrower or any other person and waives any benefit of, or any right to participate in, any security now or hereafter held by Bank. Owner further waives all rights and defenses Owner may have arising out of (A) any election of remedies by Bank, even though that election of remedies, such as a non-judicial foreclosure with respect to any security for any portion of the Indebtedness, destroys Owner's rights of subrogation or Owner's rights to proceed against Borrower for reimbursement, or (B) any loss of rights Owner may suffer by reason of any rights, powers or remedies of Borrower in connection with any anti-deficiency laws or any other laws limiting, qualifying or discharging Borrower's Indebtedness, whether by operation of AS 34.20.100 or otherwise, including any rights Owner may have to a fair market value hearing to determine the size of a deficiency following any foreclosure sale or other disposition of any real property security for any portion of the Indebtedness.

10. **AUTHORIZATIONS TO BANK.** Owner authorizes Bank either before or after revocation hereof, without notice to or demand on Owner, and without affecting Owner's liability hereunder, from time to time to: (a) alter, compromise, renew, extend, accelerate or otherwise change the time for payment of, or otherwise change the terms of, the Indebtedness or any portion thereof, including increase or decrease of the rate of interest thereon; (b) take and hold security, other than the Collateral and Proceeds, for the payment of the Indebtedness or any portion thereof, and exchange, enforce, waive, subordinate or release the Collateral and Proceeds, or any part thereof, or any such other security; (c) apply the Collateral and Proceeds or such other security and direct the order or manner of sale thereof, including without limitation, a non-judicial sale permitted by the terms of the controlling security agreement, mortgage or deed of trust, as Bank in its discretion may determine; (d) release or substitute any one or more of the endorsers or guarantors of the Indebtedness, or any portion thereof, or any other party thereto; and (e) apply payments received by Bank from Borrower to any Indebtedness of Borrower to Bank, in such order as Bank shall determine in its sole discretion, whether or not such Indebtedness is covered by this Agreement, and Owner hereby waives any provision of law regarding application of payments which specifies otherwise. Bank may without notice assign this Agreement in whole or in part.

11. **PAYMENT OF PREMIUMS, TAXES, CHARGES, LIENS AND ASSESSMENTS.** Owner agrees to pay, prior to delinquency, all insurance premiums, taxes, charges, liens and assessments against the Collateral and Proceeds, and upon the failure of Owner to do so, Bank at its option may pay any of them and shall be the sole judge of the legality or validity thereof and the amount necessary to discharge the same. Any such payments made by Bank shall be obligations of Owner to Bank, due and payable immediately upon demand, together with

interest at a rate determined in accordance with the provisions of this Agreement, and shall be secured by the Collateral and Proceeds, subject to all terms and conditions of this Agreement.

12. **EVENTS OF DEFAULT.** The occurrence of any of the following shall constitute an "Event of Default" under this Agreement: (a) any default in the payment or performance of any obligation, or any defined event of default, under (i) any contract or instrument evidencing any Indebtedness, or (ii) any other agreement between Borrower and Bank, including without limitation any loan agreement, relating to or executed in connection with any Indebtedness; (b) any representation or warranty made by Owner herein shall prove to be incorrect in any material respect when made; (c) Owner shall fail to observe or perform any obligation or agreement contained herein; (d) any impairment of any rights of Bank in any Collateral or Proceeds, or any attachment or like levy on any property of Owner; and (e) Bank, in good faith, believes any or all of the Collateral and/or Proceeds to be in danger of misuse, dissipation, commingling, loss, theft, damage or destruction, or otherwise in jeopardy or unsatisfactory in character or value.

13. **REMEDIES.** Upon the occurrence of any Event of Default, Bank shall have and may exercise without demand any and all rights, powers, privileges and remedies granted to a secured party upon default under the Alaska Uniform Commercial Code or otherwise provided by law, including without limitation, the right (a) to contact all persons obligated to Owner on any Collateral or Proceeds and to instruct such persons to deliver all Collateral and/or Proceeds directly to Bank, and (b) to sell, lease, license or otherwise dispose of any or all Collateral. All rights, powers, privileges and remedies of Bank shall be cumulative. No delay, failure or discontinuance of Bank in exercising any right, power, privilege or remedy hereunder shall affect or operate as a waiver of such right, power, privilege or remedy; nor shall any single or partial exercise of any such right, power, privilege or remedy preclude, waive or otherwise affect any other or further exercise thereof or the exercise of any other right, power, privilege or remedy. Any waiver, permit, consent or approval of any kind by Bank of any default hereunder, or any such waiver of any provisions or conditions hereof, must be in writing and shall be effective only to the extent set forth in writing. It is agreed that public or private sales or other dispositions, for cash or on credit, to a wholesaler or retailer or investor, or user of property of the types subject to this Agreement, or public auctions, are all commercially reasonable since differences in the prices generally realized in the different kinds of dispositions are ordinarily offset by the differences in the costs and credit risks of such dispositions. While an Event of Default exists: (a) Owner will deliver to Bank from time to time, as requested by Bank, current lists of all Collateral and Proceeds; (b) Owner will not dispose of any Collateral or Proceeds except on terms approved by Bank; (c) at Bank's request, Owner will assemble and deliver all Collateral and Proceeds, and books and records pertaining thereto, to Bank at a reasonably convenient place designated by Bank; and (d) Bank may, without notice to Owner, enter onto Owner's premises and take possession of the Collateral. Owner further agrees that Bank shall have no obligation to process or prepare any Collateral for sale or other disposition.

14. **DISPOSITION OF COLLATERAL AND PROCEEDS; TRANSFER OF INDEBTEDNESS.** In disposing of Collateral hereunder, Bank may disclaim all warranties of title, possession, quiet enjoyment and the like. Any proceeds of any disposition of any Collateral or Proceeds, or any part thereof, may be applied by Bank to the payment of expenses incurred by Bank in connection with the foregoing, including reasonable attorneys' fees, and the balance of such proceeds may be applied by Bank toward the payment of the Indebtedness in such order of application as Bank may from time to time elect. Upon the transfer of all or any part of the Indebtedness, Bank may transfer all or any part of the Collateral or Proceeds and shall be

fully discharged thereafter from all liability and responsibility with respect to any of the foregoing so transferred, and the transferee shall be vested with all rights and powers of Bank hereunder with respect to any of the foregoing so transferred; but with respect to any Collateral or Proceeds not so transferred, Bank shall retain all rights, powers, privileges and remedies herein given.

15. **NOTICES.** All notices, requests and demands which any party is required or may desire to give to any other party under any provision of this Agreement must be in writing delivered to each party at the following address:

OWNER: PACIFIC AND ARCTIC RAILWAY AND NAVIGATION COMPANY
P. O. Box 435
Skagway, AK 99840
Attention: President
Facsimile: (907) 983-2017

BANK: WELLS FARGO BANK, NATIONAL ASSOCIATION
301 W. Northern Lights Blvd.
Anchorage, AK 99503
Attention: Kara Sandvik
Facsimile: (907) 265-2141

or to such other address as any party may designate by written notice to all other parties. Each such notice, request and demand shall be deemed given or made as follows: (a) if sent by hand delivery, upon delivery; (b) if sent by mail, upon the earlier of the date of receipt or three (3) days after deposit in the U.S. mail, first class and postage prepaid; and (c) if sent by telecopy, upon receipt.

16. **COSTS, EXPENSES AND ATTORNEYS' FEES.** Owner shall pay to Bank immediately upon demand the full amount of all payments, advances, charges, costs and expenses, including reasonable attorneys' fees (to include outside counsel fees and all allocated costs of Bank's in-house counsel), expended or incurred by Bank in connection with (a) the perfection and preservation of the Collateral or Bank's interest therein, and (b) the realization, enforcement and exercise of any right, power, privilege or remedy conferred by this Agreement, whether incurred at the trial or appellate level, in an arbitration proceeding or otherwise, and including any of the foregoing incurred in connection with any bankruptcy proceeding (including without limitation, any adversary proceeding, contested matter or motion brought by Bank or any other person) relating to Owner or in any way affecting any of the Collateral or Bank's ability to exercise any of its rights or remedies with respect thereto. All of the foregoing shall be paid by Owner with interest from the date of demand until paid in full at a rate per annum equal to the greater of four percent (4%) or the Prime Rate in effect from time to time. The "Prime Rate" is a base rate that Bank from time to time establishes and which serves as the basis upon which effective rates of interest are calculated for those loans making reference thereto.

17. **SUCCESSORS; ASSIGNMENT.** This Agreement shall be binding upon and inure to the benefit of the heirs, executors, administrators, legal representatives, successors and assigns of the parties; provided however, that Owner may not assign or transfer any of its interests or rights hereunder without Bank's prior written consent.

18. **AMENDMENT.** This Agreement may be amended or modified only in writing signed by Bank and Owner.

19. **SEVERABILITY OF PROVISIONS.** If any provision of this Agreement shall be held to be prohibited by or invalid under applicable law, such provision shall be ineffective only to the extent of such prohibition or invalidity, without invalidating the remainder of such provision or any remaining provisions of this Agreement.

20. **GOVERNING LAW.** This Agreement shall be governed by and construed in accordance with the laws of the State of Alaska.

21. **ARBITRATION.**

(a) **Arbitration.** The parties hereto agree, upon demand by any party, to submit to binding arbitration all claims, disputes and controversies between or among them (and their respective employees, officers, directors, attorneys, and other agents), whether in tort, contract or otherwise in any way arising out of or relating to this Agreement and its negotiation, execution, collateralization, administration, repayment, modification, extension, substitution, formation, inducement, enforcement, default or termination.

(b) **Governing Rules.** Any arbitration proceeding will (i) proceed in a location in Alaska selected by the American Arbitration Association ("AAA"); (ii) be governed by the Federal Arbitration Act (Title 9 of the United States Code), notwithstanding any conflicting choice of law provision in any of the documents between the parties; and (iii) be conducted by the AAA, or such other administrator as the parties shall mutually agree upon, in accordance with the AAA's commercial dispute resolution procedures, unless the claim or counterclaim is at least \$1,000,000.00 exclusive of claimed interest, arbitration fees and costs in which case the arbitration shall be conducted in accordance with the AAA's optional procedures for large, complex commercial disputes (the commercial dispute resolution procedures or the optional procedures for large, complex commercial disputes to be referred to herein, as applicable, as the "Rules"). If there is any inconsistency between the terms hereof and the Rules, the terms and procedures set forth herein shall control. Any party who fails or refuses to submit to arbitration following a demand by any other party shall bear all costs and expenses incurred by such other party in compelling arbitration of any dispute. Nothing contained herein shall be deemed to be a waiver by any party that is a bank of the protections afforded to it under 12 U.S.C. §91 or any similar applicable state law.

(c) **No Waiver of Provisional Remedies, Self-Help and Foreclosure.** The arbitration requirement does not limit the right of any party to (i) foreclose against real or personal property collateral; (ii) exercise self-help remedies relating to collateral or proceeds of collateral such as setoff or repossession; or (iii) obtain provisional or ancillary remedies such as replevin, injunctive relief, attachment or the appointment of a receiver, before during or after the pendency of any arbitration proceeding. This exclusion does not constitute a waiver of the right or obligation of any party to submit any dispute to arbitration or reference hereunder, including those arising from the exercise of the actions detailed in sections (i), (ii) and (iii) of this paragraph.

(d) **Arbitrator Qualifications and Powers.** Any arbitration proceeding in which the amount in controversy is \$5,000,000.00 or less will be decided by a single arbitrator selected according to the Rules, and who shall not render an award of greater than \$5,000,000.00. Any dispute in which the amount in controversy exceeds \$5,000,000.00 shall be decided by majority

vote of a panel of three arbitrators; provided however, that all three arbitrators must actively participate in all hearings and deliberations. The arbitrator will be a neutral attorney licensed in the State of Alaska or a neutral retired judge of the state or federal judiciary of Alaska, in either case with a minimum of ten years experience in the substantive law applicable to the subject matter of the dispute to be arbitrated. The arbitrator will determine whether or not an issue is arbitratable and will give effect to the statutes of limitation in determining any claim. In any arbitration proceeding the arbitrator will decide (by documents only or with a hearing at the arbitrator's discretion) any pre-hearing motions which are similar to motions to dismiss for failure to state a claim or motions for summary adjudication. The arbitrator shall resolve all disputes in accordance with the substantive law of Alaska and may grant any remedy or relief that a court of such state could order or grant within the scope hereof and such ancillary relief as is necessary to make effective any award. The arbitrator shall also have the power to award recovery of all costs and fees, to impose sanctions and to take such other action as the arbitrator deems necessary to the same extent a judge could pursuant to the Federal Rules of Civil Procedure, the Alaska Rules of Civil Procedure or other applicable law. Judgment upon the award rendered by the arbitrator may be entered in any court having jurisdiction. The institution and maintenance of an action for judicial relief or pursuit of a provisional or ancillary remedy shall not constitute a waiver of the right of any party, including the plaintiff, to submit the controversy or claim to arbitration if any other party contests such action for judicial relief.

(e) Discovery. In any arbitration proceeding, discovery will be permitted in accordance with the Rules. All discovery shall be expressly limited to matters directly relevant to the dispute being arbitrated and must be completed no later than 20 days before the hearing date. Any requests for an extension of the discovery periods, or any discovery disputes, will be subject to final determination by the arbitrator upon a showing that the request for discovery is essential for the party's presentation and that no alternative means for obtaining information is available.

(f) Class Proceedings and Consolidations. No party hereto shall be entitled to join or consolidate disputes by or against others in any arbitration, except parties who have executed this Agreement or any other contract, instrument or document relating to any Indebtedness, or to include in any arbitration any dispute as a representative or member of a class, or to act in any arbitration in the interest of the general public or in a private attorney general capacity.

(g) Payment of Arbitration Costs and Fees.—The arbitrator shall award all costs and expenses of the arbitration proceeding.

(h) Miscellaneous. To the maximum extent practicable, the AAA, the arbitrators and the parties shall take all action required to conclude any arbitration proceeding within 180 days of the filing of the dispute with the AAA. No arbitrator or other party to an arbitration proceeding may disclose the existence, content or results thereof, except for disclosures of information by a party required in the ordinary course of its business or by applicable law or regulation. If more than one agreement for arbitration by or between the parties potentially applies to a dispute, the arbitration provision most directly related to the documents between the parties or the subject matter of the dispute shall control. This arbitration provision shall survive termination, amendment or expiration of any of the documents or any relationship between the parties.

Owner warrants that Owner is an organization registered under the laws of the State of Alaska.

Owner warrants that its chief executive office (or principal residence, if applicable) is located at the following address: P. O. Box 435, Skagway, AK 99840.

Owner warrants that the Collateral (except goods in transit) is located or domiciled at the following additional addresses: 231 Second Avenue, Skagway, AK 99840-0435.

IN WITNESS WHEREOF, this Agreement has been duly executed as of August 25, 2008.

**PACIFIC AND ARCTIC RAILWAY AND
NAVIGATION COMPANY,**
an Alaska corporation

By 

Name: Frank Munsters
Title: Vice President

WHITE PASS & YUKON ROUTE

Rolling Stock

October 31, 2008

<u>Description</u>	<u>Asset ID</u>	<u>Location ID</u>	<u>Qty</u>
Caboose 901 - Steel	10307-1	SKAGWAY	1
Caboose 909 - Wood	10308-1	SKAGWAY	1
Caboose 913	10589-1	SKAGWAY	1
Dump Car 643 - Center Dump	10302-1	SKAGWAY	1
Dump Car 647 - Center Dump	10306-1	SKAGWAY	1
Dump Car 650 - Side Dump	10291-1	SKAGWAY	1
Dump Car 651 - Side Dump	10292-1	SKAGWAY	1
Dump Car 652 - Side Dump	10293-1	SKAGWAY	1
Dump Car 653 - Side Dump	10294-1	SKAGWAY	1
Dump Car 654 - Side Dump	10295-1	SKAGWAY	1
Dump Car 655 - Side Dump	10296-1	SKAGWAY	1
Dump Car 656 - Side Dump	10297-1	SKAGWAY	1
Dump Car 657 - Side Dump	10298-1	SKAGWAY	1
Flat Car 1003	10239-1	SKAGWAY	1
Flat Car 1007	10240-1	SKAGWAY	1
Flat Car 1009	10241-1	SKAGWAY	1
Flat Car 1013	10242-1	SKAGWAY	1
Flat Car 1021	10243-1	SKAGWAY	1
Flat Car 1103	10254-1	SKAGWAY	1
Flat Car 1105	10250-1	SKAGWAY	1
Flat Car 1107	10251-1	SKAGWAY	1
Flat Car 1108	10252-1	SKAGWAY	1
Flat Car 1109	10253-1	SKAGWAY	1
Flat Car 1110	10244-1	SKAGWAY	1
Flat Car 1111	10245-1	SKAGWAY	1
Flat Car 1114	10246-1	SKAGWAY	1
Flat Car 1116	10247-1	SKAGWAY	1
Flat Car 1118	10248-1	SKAGWAY	1
Flat Car 1120	10249-1	SKAGWAY	1
Flat Car 1126	10256-1	SKAGWAY	1
Flat Car 1127	10255-1	SKAGWAY	1
Flat Car 1129	10279-1	SKAGWAY	1
Flat Car 1132 - Ex Honolulu	10257-1	SKAGWAY	1
Flat Car 1133 - ex Honolulu	10258-1	SKAGWAY	1
Flat Car 1134 - Ex Honolulu	10259-1	SKAGWAY	1
Flat Car 1135 - Ex Honolulu	10260-1	SKAGWAY	1
Flat Car 1136 - Ex Honolulu	10261-1	SKAGWAY	1
Flat Car 1137 - Ex Honolulu	10262-1	SKAGWAY	1
Flat Car 1138 - Ex Honolulu	10263-1	SKAGWAY	1
Flat Car 1140 - Ex Honolulu	10264-1	SKAGWAY	1
Flat Car 1142 - Ex Honolulu	10278-1	SKAGWAY	1
Flat Car 1144 - Ex Honolulu	10265-1	SKAGWAY	1

Flat Car 1165 - Ex Honolulu	10272-1	SKAGWAY	1
Flat Car 1168 - Ex Honolulu	10274-1	SKAGWAY	1
Flat Car 1174 - Ex Honolulu	10277-1	SKAGWAY	1
Flat Car 1180 - Ex Honolulu	10281-1	SKAGWAY	1
Flat Car 1183 - Ex Honolulu	10282-1	SKAGWAY	1
Flat Car 1188 - Ex Honolulu	10284-1	SKAGWAY	1
Flat Car 1193 - Ex Honolulu	10286-1	SKAGWAY	1
Flat Car 1200 - Drop Center	10287-1	SKAGWAY	1
Flat Car 1202 - Drop Center	10288-1	SKAGWAY	1
Flat Car 1203 - Drop Center	10289-1	SKAGWAY	1
Flat Car 479 - Freight Standard	10017-1	SKAGWAY	1
Flat Car 480 - Freight Standard	10018-1	SKAGWAY	1
Flat Car 484 - Freight Standard	10021-1	SKAGWAY	1
Flat Car 485 - Freight Standard	10022-1	SKAGWAY	1
Flat Car 486 - Freight Standard	10023-1	SKAGWAY	1
Flat Car 487 - Freight Standard	10024-1	SKAGWAY	1
Flat Car 488 - Freight Standard	10025-1	SKAGWAY	1
Flat Car 489	10033-1	SKAGWAY	1
Flat Cat 490 - Freight Standard	10026-1	SKAGWAY	1
Gondola Car- Sumpter Valley	10650-1	SKAGWAY	1
Parlor Car 200 - Lake Summit	10092-1	SKAGWAY	1
Parlor Car 201 - Lake Crater	10093-1	SKAGWAY	1
Parlor Car 202 - Lake Bare Loon	10094-1	SKAGWAY	1
Parlor Car 203 - Lake Fantail &	10095-1	SKAGWAY	1
Parlor Car 204 - Lake Chilkoot	10101-1	SKAGWAY	1
Parlor Car 205 - Lake Chilkat	10102-1	SKAGWAY	1
Parlor Car 206 - Lake Nares	10096-1	SKAGWAY	1
Parlor Car 207 - Lake Morrow	10098-1	SKAGWAY	1
Parlor Car 208 - Lake Homan	10099-1	SKAGWAY	1
Parlor Car 209 - Lake Bernard &	10091-1	SKAGWAY	1
Parlor Car 211 - Combination Coa	10309-1	SKAGWAY	1
Parlor Car 214 - Lake Spirit & R	10076-1	SKAGWAY	1
Parlor Car 216 - Lake Black	10685-1	SKAGWAY	1
Parlor Car 218 - Lake Atlin	10686-1	SKAGWAY	1
Parlor Car 220 - Lake Dewey	10687-1	SKAGWAY	1
Parlor Car 222 - Lake Lindeman	10688-1	SKAGWAY	1
Parlor Car 224 - Lake Marsh & Re	10068-1	SKAGWAY	1
Parlor Car 226 - Lake Fraser	10689-1	SKAGWAY	1
Parlor Car 230 - Big Lake Kalzer	10591-1	SKAGWAY	1
Parlor Car 234 - Lake Cowley & R	10060-1	SKAGWAY	1
Parlor Car 236 - Lake Mayo & Ren	10058-1	SKAGWAY	1
Parlor Car 238 - Lake Watson & R	10059-1	SKAGWAY	1
Parlor Car 240 - Lake Bennett &	10070-1	SKAGWAY	1
Parlor Car 242 - Lake Teslin & R	10061-1	SKAGWAY	1
Parlor Car 244 - Lake Emerald &	10074-1	SKAGWAY	1
Parlor Car 248 - Lake Tagish & R	10065-1	SKAGWAY	1
Parlor Car 252 - Lake Muncho & R	10063-1	SKAGWAY	1

Parlor Car 254 - Lake Dezadeash	10078-1	SKAGWAY	1
Parlor Car 256 - Lake Lebarge &	10064-1	SKAGWAY	1
Parlor Car 258 - Lake Kluane & R	10071-1	SKAGWAY	1
Parlor Car 260 - Lake Tutshi & R	10072-1	SKAGWAY	1
Parlor Car 264 - Lake Aishihik &	10062-1	SKAGWAY	1
Parlor Car 266 - Lake Schwatka &	10079-1	SKAGWAY	1
Parlor Car 267 - Lake Portage &	10073-1	SKAGWAY	1
Parlor Car 268 - Lake Lewes & Re	10080-1	SKAGWAY	1
Parlor Car 270 - Lake Kathleen &	10081-1	SKAGWAY	1
Parlor Car 272 - Lake Nisutlin &	10082-1	SKAGWAY	1
Parlor Car 274 - Lake Primrose &	10086-1	SKAGWAY	1
Parlor Car 280 - Lake Dease & Re	10084-1	SKAGWAY	1
Parlor Car 286 - Lake Kusawa & R	10090-1	SKAGWAY	1
Parlor Car 290 - Yukon River	10097-1	SKAGWAY	1
Parlor Car 300 - Skagway River	10496-1	SKAGWAY	1
Parlor Car 302 - Taiya River	10497-1	SKAGWAY	1
Parlor Car 304 - Copper River	10498-1	SKAGWAY	1
Parlor Car 306 - Stikine River	10499-1	SKAGWAY	1
Parlor Car 308 - Klondike River	10500-1	SKAGWAY	1
Parlor Car 310 - Mackenzie River	10537-1	SKAGWAY	1
Parlor Car 312 - Tatshenshini Ri	10563-1	SKAGWAY	1
Parlor Car 314 - Alsek River	10564-1	SKAGWAY	1
Parlor Car 316 - Liard River	10565-1	SKAGWAY	1
Parlor Car 318 - Taku River	10566-1	SKAGWAY	1
Parlor Car 320 - Pelly River	10588-1	SKAGWAY	1
Parlor Car 322 - Fortymile River	10587-1	SKAGWAY	1
Parlor Car 324 - Porcupine River	10590-1	SKAGWAY	1
Parlor Car 326 - Peel River	10601-1	SKAGWAY	1
Parlor Car 328 - Stewart River	10602-1	SKAGWAY	1
Parlor Car 330 - Peace River	10603-1	SKAGWAY	1
Parlor Car 332 - Lake Johns	10630-1	SKAGWAY	1
Parlor Car 334- Thompson River	10631-1	SKAGWAY	1
Parlor Car 336- Lake Drury	10632-1	SKAGWAY	1
Parlor Car 338- Lake McQuesten	10633-1	SKAGWAY	1
Parlor Car 340- Lake Finlayson	10634-1	SKAGWAY	1
Parlor Car 342- Lake McNiel	10635-1	SKAGWAY	1
Parlor Car 344- Lake Munroe	10636-1	SKAGWAY	1
Parlor Car 346- Lake Pelly	10637-1	SKAGWAY	1
Parlor Car 348 - Lake Klukshu	10653-1	SKAGWAY	1
Parlor Car 350 - Lake McClintock	10654-1	SKAGWAY	1
Parlor Car 352 - Lake Big Salmon	10655-1	SKAGWAY	1
Parlor Car 354 - Lake Takhini	10656-1	SKAGWAY	1
Parlor Car 356 - Lake Fairweathe	10657-1	SKAGWAY	1
Parlor Car 358 - Lake Hutshi	10658-1	SKAGWAY	1
Parlor Car 360 - Lake Annie	10659-1	SKAGWAY	1
Parlor Car 362 - Lake Crag	10660-1	SKAGWAY	1
Parlor Car 364 - Lake Frances	10661-1	SKAGWAY	1

Parlor Car 366 - Lake Choutla	10662-1	SKAGWAY	1
Parlor Car 368- Lake Wasson	10694-1	SKAGWAY	1
Parlor Car 370- Lake Surprise	10695-1	SKAGWAY	1
Parlor Car 372- Lake McConnell	10696-1	SKAGWAY	1
Parlor Car 374- Lake Jennings	10697-1	SKAGWAY	1
Parlor Car 376- Lake Squanga	10698-1	SKAGWAY	1
Locomotive 90 - GE 32060	10001-1	SKAGWAY	1
Locomotive 91 - GE32061 & Renova	10002-1	SKAGWAY	1
Locomotive 92 - GE32709 & Renova	10003-1	SKAGWAY	1
Locomotive 93 - GE 32710 & Renov	10004-1	SKAGWAY	1
Locomotive 94 - GE32711 & Renova	10005-1	SKAGWAY	1
Locomotive 95 - GE 34592 & Renov	10006-1	SKAGWAY	1
Locomotive 97 - GE 34594 & Renov	10007-1	SKAGWAY	1
Locomotive 98 - GE 35790 & Renov	10008-1	SKAGWAY	1
Locomotive 99 - GE 35791 & Renov	10009-1	SKAGWAY	1
Locomotive 100 - GE 35792 & Reno	10010-1	SKAGWAY	1
Locomotive 108 - ALCO Diesel	10011-1	SKAGWAY	1
Locomotive 109 - ALCO Diesel	10012-1	SKAGWAY	1
Locomotive 110 - ALCO Diesel	10013-1	SKAGWAY	1
Locomotive 73 & Renovate	10014-1	SKAGWAY	1
Locomotive 114 Purchase & Resto	10016-1	SKAGWAY	1
Rotary Snowplow & Renovations	10310-1	SKAGWAY	1
Locomotive 96 - GE Rebuilt	10562-1	SKAGWAY	1
Locomotive 104	10578-1	SKAGWAY	1
Locomotive 106	10579-1	SKAGWAY	1
Locomotive 107	10580-1	SKAGWAY	1
Locomotive 103	10594-1	SKAGWAY	1
Locomotive 101	10595-1	SKAGWAY	1
Engine 69	10604-1	SKAGWAY	1